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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/347, 977 12/01/94 ROTTER

M 84809

EXAMINER

NGUYEN, K

ART UNIT PAPER NUMBER

3509

DATE MAILED: 09/18/95

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined  Responsive to communication filed on \_\_\_\_\_  This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1.  Notice of References Cited by Examiner, PTO-892.
2.  Notice of Draftsman's Patent Drawing Review, PTO-948.
3.  Notice of Art Cited by Applicant, PTO-1449.
4.  Notice of Informal Patent Application, PTO-152.
5.  Information on How to Effect Drawing Changes, PTO-1474..
6.  \_\_\_\_\_

Part II SUMMARY OF ACTION

1.  Claims 1-12 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2.  Claims \_\_\_\_\_ have been cancelled.

3.  Claims \_\_\_\_\_ are allowed.

4.  Claims 1-12 are rejected.

5.  Claims \_\_\_\_\_ are objected to.

6.  Claims \_\_\_\_\_ are subject to restriction or election requirement.

7.  This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8.  Formal drawings are required in response to this Office action.

9.  The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are  acceptable;  not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10.  The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been  approved by the examiner;  disapproved by the examiner (see explanation).

11.  The proposed drawing correction, filed \_\_\_\_\_, has been  approved;  disapproved (see explanation).

12.  Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has  been received  not been received  been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.

13.  Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14.  Other

EXAMINER'S ACTION

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**Part III DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. Claim 12 is rejected under 35 U.S.C. § 112, fourth paragraph, as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Claim 12 is confusing because applicant fails to further limit the method of installing a metal roof. Instead, claim 12 appears to recite a method of manufacturing the air permeable and resilient strip which is not a method of installing a metal roof.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

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3. Claims 1-5, as understood, are rejected under 35 U.S.C. § 103 as being unpatentable over Rotter U.S. Patent 5,167,579 in view of Kellogg et al. and Frohlich et al..

Rotter discloses a sloped roof comprising an underlying sheeting (14); roof shingles (20); a vent slot (12) disposed along a roof ridge adapted to permit air from an interior space under the roof to flow through the slot to the exterior; a strip (30) having an undersurface contacting the shingles (20), and made of randomly aligned synthetic fibers into a web and joined by phenolic or latex binding agents and heat cured (see col. 3, last paragraph); and a ridge cap (18) overlying the slot (12) and the strip (30).

It is noted that the Rotter reference ('579) uses the roof shingles (20) instead of a sheet having a plurality of projections and the strip (30) does not have a surface shaped to match the projections of the projected sheet as required in claims 1-4. However, Kellogg et al. teaches it is very well known in the art the use of metal roof (22) having a plurality of panels which includes a plurality of projections (32,36), each panel having a pair of lateral edges, one of the projections (32) in proximity of the one of the lateral edges, the projections overlaps on an adjoining panel in proximity to the other lateral edge as shown in Fig. 4. Frohlich et al. teaches it is known to provide a corrugated roof sheet (1) with a layer of insulating

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material that has a surface matches the corrugations of the roof sheet (1). Therefore, it would have been obvious to one of ordinary skill in the art to substitute the shingles (20) of Rotter with the projected panels (22) of Kellogg et al. and modify the undersurface of the strip (30) with a surface that matches the projections of panels as taught by Frohlich et al. for the advantage of preventing the wind from lifting the strip (30) away from the panels (22).

*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 6-12, as understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Rotter (,579).

Rotter discloses all of the steps of installing a roof vent as recited in claims 6-12. The limitations such as "the roof having a decking and a metal sheet overlying the decking, the metal sheet having a plurality of projections..." and "the strip having a surface having a shape to compliment the projections of the metal sheet" have not been given any patentable weight because they are not actual method steps of installing a roof.

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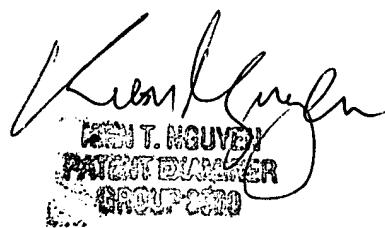
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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien Nguyen whose telephone number is (703) 308-2493.

KTN

September 11, 1995



Kien T. NGUYEN  
PATENT EXAMINER  
GROUP 2430